

Regular Session, 2012

SENATE BILL NO. 317

BY SENATOR MARTINY

JUVENILE JUSTICE. Provides relative to parole eligibility for certain juveniles. (8/1/12)

AN ACT

To amend and reenact R.S. 15:574.4(B) and to enact R.S. 15:574.4(D), relative to juvenile parole eligibility; to provide relative to juvenile parole eligibility; to provide for parole eligibility for juveniles sentenced to life imprisonment for certain offenses; to provide for exceptions; to provide for conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:574.4(B) is hereby amended and reenacted and R.S. 15:574.4(D) is hereby enacted to read as follows:

§574.4. Parole; eligibility

\* \* \*

B. No person shall be eligible for parole consideration who has been convicted of armed robbery and denied parole eligibility under the provisions of R.S. 14:64. ~~No~~ **Except as provided in Subsection D of this Section, no** prisoner serving a life sentence shall be eligible for parole consideration until his life sentence has been commuted to a fixed term of years. No prisoner sentenced as a serial sexual offender shall be eligible for parole. No prisoner may be paroled while there is

1 pending against him any indictment or information for any crime suspected of having  
2 been committed by him while a prisoner. Notwithstanding any other provisions of  
3 law to the contrary, a person convicted of a crime of violence and not otherwise  
4 ineligible for parole shall serve at least eighty-five percent of the sentence imposed,  
5 before being eligible for parole. The victim or victim's family shall be notified  
6 whenever the offender is to be released provided that the victim or victim's family  
7 has completed a Louisiana victim notice and registration form as provided in R.S.  
8 46:1841 et seq., or has otherwise provided contact information and has indicated to  
9 the Department of Public Safety and Corrections, Crime Victims Services Bureau,  
10 that they desire such notification.

11 \* \* \*

12 **D.(1) Notwithstanding any provision of law to the contrary, any person**  
13 **serving a sentence of life imprisonment who was under the age of eighteen years**  
14 **at the time of the commission of the offense, except for a person serving a life**  
15 **sentence for a conviction of first degree murder (R.S. 14:30) or second degree**  
16 **murder (R.S. 14:30.1), shall be eligible for parole consideration pursuant to the**  
17 **provisions of this Subsection if all of the following conditions have been met:**

18 **(a) The offender has served twenty-five years of the sentence imposed**  
19 **and is at least forty-five years of age.**

20 **(b) The offender has not committed any serious disciplinary offenses, as**  
21 **defined by the Disciplinary Rules for Adult Offenders adopted by the**  
22 **Department of Public Safety and Corrections, within twelve consecutive months**  
23 **prior to the review.**

24 **(2) For each offender eligible for parole consideration pursuant to the**  
25 **provisions of this Subsection, the board shall meet in a three-member panel and**  
26 **all of the following shall occur:**

27 **(a) Each member of the panel shall be provided with and shall consider**  
28 **all of the following:**

29 **(i) The offender's validated risk assessment instrument which shall be**

prepared by the secretary of the Department of Public Safety and Corrections  
for use in evaluating the risks associated with releasing the offender on parole.

(ii) A written evaluation of the offender by a person who has expertise  
in adolescent brain development and behavior.

(iii) Any other relevant evidence pertaining to the offender.

(b) The panel shall decide, by a majority vote, whether or not to release  
the offender on parole.

(c) The panel shall render specific findings of fact in support of its  
decision.

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The original instrument was prepared by Cathy R. Wells. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

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#### DIGEST

Martiny (SB 317)

Present law allows persons who were under the age of 18 at the time of the commission of the offense to be sentenced to life imprisonment without the benefit of parole for certain crimes, including first degree murder, second degree murder, aggravated rape, and aggravated kidnaping.

In the case of *Graham v. Florida* (130 S.Ct. 2011 (2010)), the U.S. Supreme Court held that the Eighth Amendment's "cruel and unusual punishment" clause does not permit a juvenile offender to be sentenced to life in prison without a reasonable opportunity for parole for a non-homicide crime.

Proposed law amends present law to allow persons who were under the age of 18 at the time of the commission of the offense, except those persons serving a sentence for a conviction of first degree murder or second degree murder, to be eligible for parole consideration upon reaching the age of 45 and upon serving 25 years of the sentence imposed when certain conditions have been met.

Proposed law provides for the procedure by which such parole decisions shall be made.

Effective August 1, 2012.

(Amends R.S. 15:574.4(B); adds R.S. 15:574.4(D))

#### Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the  
original bill.

1. Changes the required amount of time served to be eligible for parole consideration from 20 to 25 years.